

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ABBOTT CARDIOVASCULAR SYSTEMS INC.)
 and ABBOTT LABORATORIES INC.,)
)
 Plaintiffs,)
)
 v.) C. A. No. 98-80 (SLR)
) (Consolidated with C.A. No. 98-314
) (SLR) and C.A. No. 98-316 (SLR))
)
)
 MEDTRONIC VASCULAR, INC. and)
 MEDTRONIC USA, INC.,)
)
 Defendants.)
)
)

**SUBMISSION OF OFFICE ACTION OF THE U.S. PATENT AND TRADEMARK
OFFICE CONFIRMING PATENTABILITY OF CLAIM 11 OF U.S. PAT. NO. 6,066,168**

Pursuant to Local Rule 7.1.2(b), Abbott Cardiovascular Systems Inc. and Abbott Laboratories Inc. (collectively “Abbott”) submit a copy of an office action issued by the U.S. Patent & Trademark Office (“PTO”) in two merged reexamination proceedings for U.S. Patent No. 6,066,168 (“the ’168 patent”), which were initiated on behalf of Medtronic Vascular, Inc. and Medtronic USA, Inc. (“Medtronic”). In the office action, the PTO confirmed that claim 11 of the ’168 patent is patentable over the prior art of record, notwithstanding the Supreme Court’s recent decision in *KSR Int’l Co. v. Teleflex Inc.*, 127 S. Ct. 1727 (2007). Although the PTO has continued to apply non-final rejections to other claims of the Lau patents, Abbott intends to seek withdrawal or reversal of these rejections and expects that the patentability of these other claims ultimately will be confirmed.

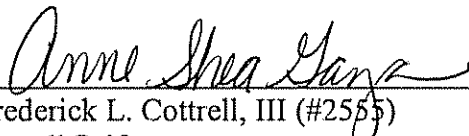
Although the Court already stated at the hearing on February 12, 2008, that Medtronic's reexamination requests "will play absolutely no role in my decision" on Abbott's motion for a

permanent injunction (D.I. 822, Tr. at 41:3-7), the PTO's allowance of claim 11 of the '168 patent in any event moots Medtronic's arguments regarding reexamination. Specifically, each of Medtronic's stents at issue (other than Medtronic's discontinued MicroStent II and BeStent2) infringes claim 11 of the '168 patent. (D.I. 629.) Accordingly, Medtronic cannot rely on the reexamination proceedings as a basis to oppose Abbott's motion for injunction or to request a stay should an injunction issue.

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Dated: February 21, 2007


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UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

CERTIFICATE OF SERVICE

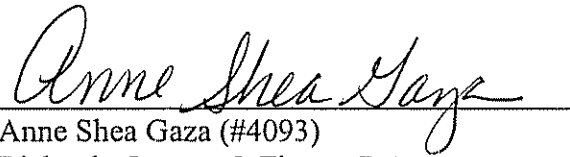
I hereby certify that on February 21, 2008, I caused to be served by hand delivery the foregoing document and electronically filed the same with the Clerk of Court using CM/ECF which will send notification of such filing(s) to the following:

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I hereby certify that on February 21, 2008, I have sent by Federal Express the foregoing document to the following non-registered participants:

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